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## RECENT CASES.

*Action against Elevated Railroad—Damages Reserved.*—*Shepard v. Metropolitan El. Ry. Co.*, 31 N. Y. Supp. 537. The Western Union Telegraph Company made a conveyance of land, reserving the right of action against an elevated railroad company for damages to the property conveyed. The grantee brought suit for such damages, and the grantor sought to be made a party to the action. *Held*, that such reservation imposed no trust duty upon the grantee, as no portion of the principal estate to which the easement could appertain was retained by the grantor, and the right of action accompanies the easement.

*Champertous Contract—Damages for Breach of Same—Public Policy.*—*Lyon v. Hussey*, 31 N. Y. Sup. 281 (N. Y.). An agreement made between two parties, by which one of them is to employ counsel to furnish money for carrying on the suit and to procure evidence to establish the other's claim, in consideration of which he is to receive a certain portion of the amount recovered, is champertous, and cannot be enforced. Where one agrees to obtain evidence for another and is promised a part of the sum recovered for his labors, the contract is void as against public policy.

*Contemporaneous Executions—Distribution—Rights of Judgment Creditors.*—*Moores et al. v. Peycke et al.*, 62 N. W. Rep. 1072. Where two or more judgments in favor of different plaintiffs against the same debtor are sued out during the same term of court, the money arising from writs of execution issued thereon during or within ten days after the close of the term, if insufficient to satisfy all, must be apportioned *pro rata* among the several creditors.

*Defective Sidewalk—Liability of City.*—*Jackson v. City of Greenville*, 16 So. Rep. 382 (Miss.). The point in question in this case is whether a person of full age using the sidewalk for the sole purpose of playing with a dog is making such a reasonable use of it as to entitle him to recover damages against the city if he is injured by a defect therein. Was the municipality under any duty to the appellant to keep in repair the sidewalk so that he might safely use it for the purpose of his play with the dog? It

was held that the injured party, in order to recover, must fix liability upon the city, and to fix liability the appellant must show failure on the city's part to discharge a duty to him. But the duty to repair and keep in reasonably safe condition streets and sidewalks is due only to those using them for the purposes for which they were made, and playing with a dog is not held to be such a reasonable use.

*Election of Remedies—Attachment—Subsequent Replevin.*—*Johnson-Bruikman Commission Co. v. Mo. Pac. Ry. Co.*, 28 S. W. Rep. 870 (Mo.). The plaintiff began an attachment suit to recover a quantity of wheat, and abandoned it before judgment, substituting an action of replevin; the defendant successfully interposed a demur-  
rer. The Supreme Court reversed the judgment, saying that the mere fact that a party mistakes his remedy, and pursues the wrong one, ought not to prevent him from afterward obtaining redress in the proper manner. He was not estopped in this case, as there were no intervening rights of third parties, and the defendant was not injured.

*Estoppel—Fraudulent Conveyance—Option.*—*Kahn v. Peter*, 16 So. Rep. 524. Where K advised W to make a fraudulent sale—himself becoming one of the benefactors from such sale—he has no longer the option of setting aside or claiming under it, but is committed to it, and estopped from questioning its validity.

*Execution—Property Subject to Levy—Articles Stored with Debtor.*—*Burwell v. Herron et al.*, 16 So. Rep. 356 (Miss.). This action was brought for the recovery of a soda water fountain, which, among other property, was seized by appellees in an attachment against a judgment debtor. Appellant claimed and satisfactorily proved that the property belonged to him, and that it had only been rented to judgment debtor, but that long before the execution had been served the rental contract had expired and that by special agreement the fountain was kept unused in the storehouse until the owner should want it. *Held*, that it was not property so used or acquired in his business the creditors could seize on a writ of execution.

*Exemption from Taxation—Object of the Statutes.*—*Shreveport Gas, Electric Light and Power Co. v. Assessor of Caddo Parish.*, 16 So. Rep. 650. A statute passed with the object of encouraging agriculture, made exempt from taxation, among other things, the capital and machinery used in the manufacture of fertilizers and